

Second Revision

PZBA12-00018

5001 Dyer Street

Earl Scheib Realty Corporation

Applicant requests a Special Exception under Section 2.16.050 K (15 Years or More, Rear Yard Setback) in a C-4 (Commercial) zone.

This would permit a 94.7' by 10' portion of a building which is encroaching into the rear yard setback and is located to within 0' of the rear property line.

The required rear yard setback is 10 feet in the C-4 zone district.

BACKGROUND

This case was previously heard at the May 14, 2012, ZBA meeting. The Board requested staff to investigate further the issues involving the encroachments to the front and rear property lines.

The applicant purchased the subject property in 1987 (see copy of warranty deed). The 1986 aerial shows that the entire building is encroaching to the rear property line. At some time prior to the 1986 aerial, the building was extended to the rear property line, prior to the current owner taking ownership of the building.

Further, a portion of the building is built to 0' of the front property line. Research of Building Permits & Inspections microfiche records reveals building permit #'s B64831 (1979), B87286 (1981), B07585 (1984), and B34711 (1987, interior improvements), all submitted with site plans showing the encroaching portions of the building, extending to the rear and front property lines, as it exists today.

The building exists in the 1956 aerial with the required yard setbacks at the front, rear and side street; therefore, Planning could not register the property as legally nonconforming for encroachments into the front and rear yard setbacks, existing prior to the effective date of the zoning code, 1955.

Regarding the encroachment in the front setback to within 0' of the front property line, a recent (March 20, 2012) code change to Title 20, Zoning, Appendix B (Table of Density and Dimensional Standards), permits a 0' front yard setback in the C-4 zone district.

CALCULATIONS

Required rear yard setback = 10'

Requested rear yard setback = 0'

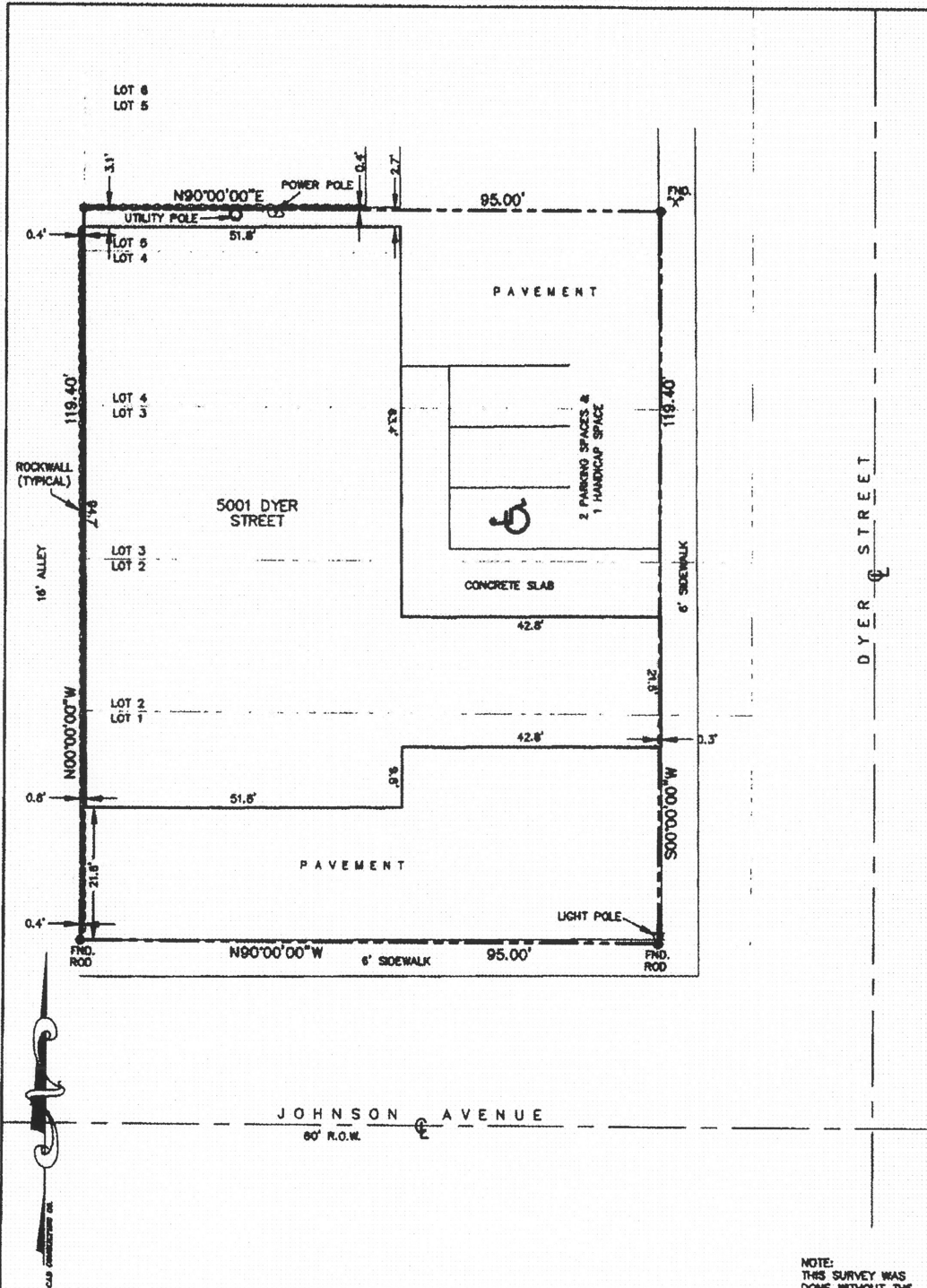
STAFF RECOMMENDATION

Staff recommendation is for approval of the request for the Special Exception K as it meets the requirements.

The Zoning Board of Adjustment is empowered under Section 2.16.050 K to:

"Permit the encroachment into the required yard setbacks for structures; provided, however, that the applicant can prove the following conditions:

1. The encroachment into the required yard setback has been in existence for more than fifteen years; and,
2. Neither the applicant nor current property owner is responsible for the construction of the encroachment; and,
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built; and,
4. The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback; and,
5. The encroachment does not violate any other provision of the El Paso City Code."



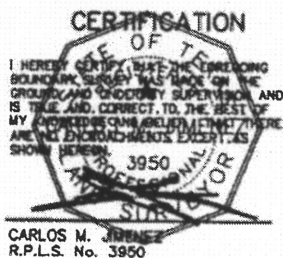
SCALE 1"=20'

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JOB # 12-0718 DATE: 03-23-12 FIELD: DG OFFICE: EA FILE: NET\ENRIQUE\2012\12-0718

LOCATED IN ZONE c PANEL # 480214-0034-B DATED 10-15-82

RECORDED IN VOLUME XX PAGE XX, PLAT RECORDS, EL PASO COUNTY, TX



5001 DYER STREET - THE WEST 95 FEET OF LOTS 1 THROUGH 4, AND THE SOUTH 7 FEET OF LOT 5, BLOCK 123, MORNINGSIDE HEIGHTS CITY OF EL PASO, EL PASO COUNTY, TEXAS

CAD CONSULTING COMPANY
1790 LEE TREVINO DRIVE SUITE 503
EL PASO, TEXAS 79936
(915) 633-6422

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Roll Value History
Events

Property

Name, Address and Property Information

In Search List: 2 of 2 [< Prev](#) [Next >](#)

Tax Year: 2012 [< Prev](#) [Next >](#)

Property ID: 300136 **Owner:** SCHEIBE EARL REALTY CORP (389354)
Geo ID: M79499912300900 **Address:** 225 BROADWAY # 18, SAN DIEGO, CA 92101-5005
Ref ID 1: M79412300900 **Situs:** 5001 DYER ST EL PASO, TX
Ref ID 2: **Legal:** 123 MORNINGSIDE HEIGHTS W 95 FT OF 1 TO 4 & S 7 FT OF 5 (11343 SQ FT)

Ownership History

Deed Type Volume Page Doc Number Recorded

UNK	0000	0000	
UNK	0761	0490	
UNK	1126	1522	
W	1927	1155	

Entered

01/03/1900
02/04/1977
10/01/1980
07/09/1987

018518

Prepared by the State Bar of Texas for use by lawyers only. Reviewed
1-1-76. Revised to include grantee's address (art. 6626, RCS) 1-1-82.

REFILED TO INCLUDE CORRECT LEGAL DESCRIPTION-BLOCK #

~~018518~~
WARRANTY DEED
018854

24089 -
87501280
~~105~~ 5.00

OK 24141-500

THE STATE OF TEXAS
COUNTY OF EL PASO

KNOW ALL MEN BY THESE PRESENTS:

That, I, M. L. STEWART

of the County of ~~HAYWARD~~ **ALAMEDA**

and State of CALIFORNIA

for and in

consideration of the sum of TEN (\$10.00)

DOLLARS

and other valuable consideration to the undersigned paid by the grantee
which is hereby acknowledged,

herein named, the receipt of

have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto
EARL SCHEIBE REALTY CORPORATION

of the County of EL PASO

and State of TEXAS

, all of

the following described real property in EL PASO

County, Texas, to-wit:

The West 95 feet of Lots 1 through 6, inclusive, Block 123, MORNINGSIDE
HIGHTS ADDITION, an Addition to the City of El Paso, El Paso County,
Texas, according to the plat thereof, recorded in Volume 11, Page 33,
Plat Records of El Paso County, Texas. More commonly known as 5001-
5021 Dyer Street.


TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and
appurtenances thereto in anywise belonging, unto the said grantee, his heirs and assigns
forever; and I do hereby bind my heirs, executors and administrators to

WARRANT AND FOREVER DEFEND all and singular the said premises unto the said grantee, his
heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

It is expressly agreed that any liens that would arise in favor of either
party by operation of law, by reason of the exchange of property, shall
not exist in favor of either party against the other, and any and all
implied liens so arising are expressly waived and released by the parties
hereto.

EXECUTED this 9th day of July

A.D. 19 87


M. L. STEWART

1933 0920

~~1927 1155~~
~~1823 1566~~

Mailing address of each grantee:

Name: EARL SCHEIB REALTY CORPORATION
Address: Address:

018854

STATE OF TEXAS
COUNTY OF EL PASO

This instrument was acknowledged before me on the 9th day of July, 1987,
by M. L. Steele
My commission expires: December 26, 1989
Notary Public, State of Texas
Notary's printed name: ROSA LOYA
OFFICIAL SEAL
ROSA LOYA
NOTARY PUBLIC-CALIFORNIA
ALAMEDA COUNTY
MY COMM. EXP. DEC. 26, 1989

STATE OF TEXAS
COUNTY OF

This instrument was acknowledged before me on the _____ day of _____, 19____,
My commission expires: _____
Notary Public, State of Texas
Notary's printed name: _____
COUNTY CLERK, El Paso County, Texas

STATE OF TEXAS
COUNTY OF

This instrument was acknowledged before me on the _____ day of _____, 19____,
by _____ of _____
a _____ corporation, on behalf of said corporation.

My commission expires: _____

Notary Public, State of Texas
Notary's printed name: _____

AFTER RECORDING RETURN TO:

Mr. Jack Minnichan
Earl Scheib Realty Corp.
8737 Wilshire Blvd.
Beverly Hills, Ca. 90211

60518

1933 0921

1927 1156

1823 1567

94-34206

GENERAL WARRANTY DEED
(Cash)

THE STATE OF TEXAS

§

COUNTY OF EL PASO

§

KNOW ALL MEN BY THESE PRESENTS:

THAT THE UNDERSIGNED, EARL SCHEIB REALTY CORP., A California Corporation, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) cash, and other good and valuable consideration in hand paid by the Grantee, herein named, the receipt and sufficiency of which is hereby fully acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and by these presents does hereby GRANT, SELL and CONVEY unto ALBERT NABHAN, herein referred to as "Grantee", whether one or more, all Grantor's right, title and interest in and to the real property described as follows:

The West 95 feet of Lot 6 and the West 95 feet of the North 18 feet of Lot 5, Block 123, MORNINGSIDE HEIGHTS ADDITION, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 11, Page 33, Plat Records of El Paso County, Texas.

This conveyance, however, is made and accepted subject to any utility easements and prescriptive rights visible and apparent on the ground, rights of adjoining owners in yard party walls where situated on a common boundary line and all restrictions relating to the hereinabove described property as now reflected by the records of the County Clerk of El Paso County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns forever; and Grantor does hereby bind Grantor's heirs, executors, administrators, successors and/or assigns, to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns, against every person whomsoever claiming or to claim the same or any part thereof.

Current ad valorem taxes on said property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED this 5th day of May, 1994.

EARL SCHEIB REALTY CORP.

BY: Donald R. Scheib
TITLE: President

Grantee's Address:

10622 Montwood, Suite H
El Paso, Texas 79935

2734/1184

THE STATE OF CALIFORNIA
COUNTY OF Los Angeles

§
§
§

This instrument was acknowledged before me on 5th day of May, 1994, by DONALD R. SCHEIB, of EARL SCHEIB REALTY CORP., a California corporation, on behalf of said corporation.

Teresita I. Alidio
NOTARY PUBLIC, STATE OF CALIFORNIA
PRINTED NAME OF NOTARY

TERESITA I. ALIDIO

MY COMMISSION EXPIRES:

March 8, 1996



Return to:

Albert Nabhan
10622 Montwood, Suite H
El Paso, Texas 79935

94-34206

FREE

MAY 10 1994

EL PASO

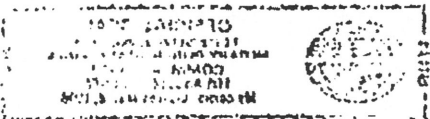
at CHANDLER, NEBEN WHICH RESIDES THE STATE OF TEXAS
ALL USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS UNLAWFUL AND UNENFORCEABLE UNDER FEDERAL LAW
STATE OF TEXAS
COUNTY OF EL PASO
I hereby certify that this instrument was filed on the date and time
stamped herein by me and was duly recorded in the Public and
of the Official Public Record of said County, El Paso County, Texas.

MAY 10 1994

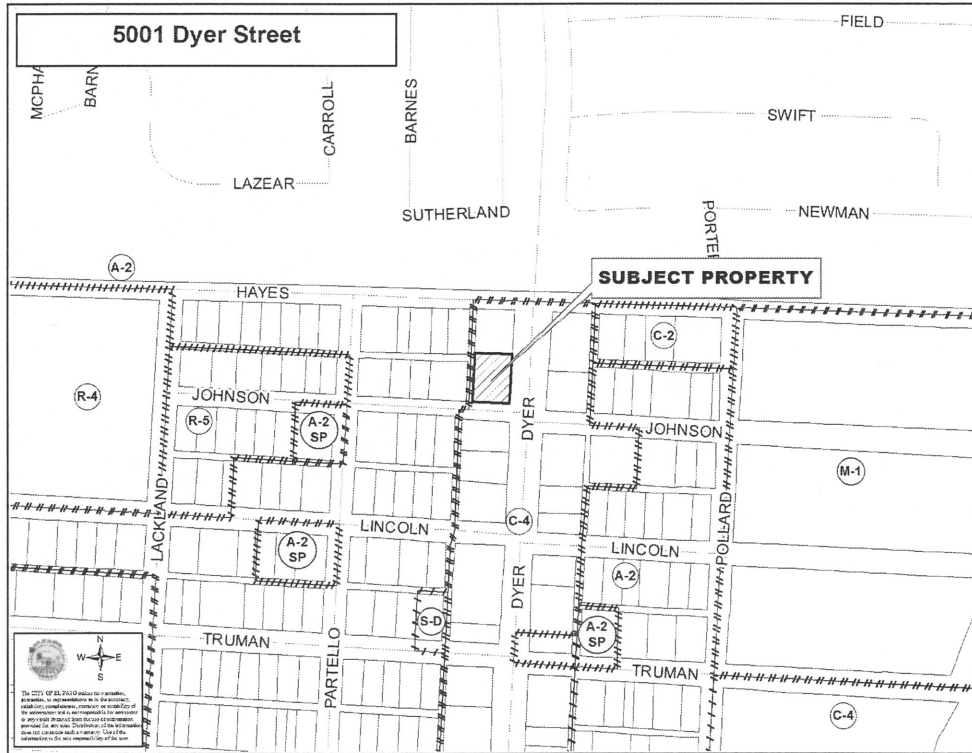


El Paso County, Texas

H. C. [Signature]



ZONING MAP



NOTIFICATION MAP

